THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.17842 of 2006

DATED 28.08.2006

Between:

Ram Kumar Tiwar. ……. PETITIONER

Versus

The Assistant City Planner, Circle No.V,
Municipal Corporation of Hyderabad,
Khairtabad, Hyderabad and another. …. RESPONDENTS

WRIT PETITION NO.17842 of 2006

ORDER:

Heard the learned counsel.

2. The Writ Petition is filed for a Writ of Mandamus declaring the action of the 1st respondent and his staff dated 23.8.2006 orally asking the petitioner to surrender his properties Nos.6-2-1011, 6-2-1011/A and 6-2-1011/3/D (97.13 sq.yards) situated at Khairtabad, Hyderabad and to vacate the same by 30.8.2006 as illegal, void in contravention of Sections 146 and 147 of H.M.C.Act and a Division Bench Judgment rendered by this Court in W.P.No.21198 of 1997, dated 3.2.1998 ass followed in W.P.No.6589 of 2006, dated 3.4.2006 and consequently direct the respondents to go ahead with land acquisition proceedings in respect of petitioner's above noted premises and pass such other suitable orders.

3. It is stated that the petitioner is the absolute owner and possessor of premises Nos. 6-2-1011, 6-2-1011/A and 6-2-1011/3/D (97.13 sq.yards) situated at Khairtabad, Hyderabad, A.P. by virtue of eight registered sale deeds executed by his vendors. The premises aforementioned consist of ground and first floors. It is also stated that the Assistant City Planner, Circle No.V, of Municipal Corporation of Hyderabad, approached the petitioner on 15.2.2003 by issuing notice dated 15.2.2003 saying that Municipal Corporation of Hyderabad had taken up a road widening

programme from Nirankari Bhavan to Vishweswaraiah Junction, Hyderabad, and that a total extent of 97.13 sq.yards land is being affected in the road widening programme and sought the cooperation of the petitioner in the road widening programme on the following terms and conditions:

(1) Payment of compensation for structural value in respect of the affected portion

(2) Availment of concession as prescribed by the Government in G.O.Ms.No.483, M.A., dated 24.8.1998 for the re-development of the above area.

It is also stated that the petitioner purchased the aforementioned properties in the year 2000 against a very high price and the properties are double storeyed buildings constructed as early as 1995. It is also stated that the price of the land in the area is Rs.50,000/- per sq.yard and the petitioner will be put to loss nearly 100 sq.yards of land valued at Rs.50 lakhs in terms of land value. That apart, the cost of construction was alone more than Rs.10 lakhs according to a modest estimate. It is stated that the 1st respondent brought pressure on the petitioner to part with his valuable properties and he expressed his willingness to part with his property on the following terms and conditions:

(1) payment of the cost of structure;

(2) proposed plan of new building to be approved by the MCH with 3' set back

(3) three months time for surrendering the affected portion.

It is further stated that the offer was oral, but suddenly the respondent-Corporation demolished the ground floor, 1st floor and balcony without the permission of the petitioner. It is also stated that the respondent-Corporation resorted to law of force ignoring

the force of law. It is further stated that the petitioner made a representation to the 2nd respondent dated 5.5.2003. It is stated that the respondent-Corporation handed over three cheques to the petitioner towards the cost of structure only to a tune of Rs.5,53,269/-. It is also stated that the petitioner was compelled to receive the cheques as the 2nd respondent told him that in the event of refusal, he will forfeit this compensation also. It is also stated that the petitioner has been in possession and enjoyment of the land till date and he was not paid any compensation for his valuable land which calculated at more than Rs.50 lakhs. Thus, he is entitled for compensation for his valuable land by initiating land acquisition proceedings. It is also stated that on 23.8.2006 the 1st respondent came to the premises Nos.6-2-1011, 6-2-1011/A and 6-2-1011/3/D situated at Khairtabad, Hyderabad, and asked the petitioner to vacate and surrender the premises and the petitioner requested the 1st respondent to initiate land acquisition proceedings and take the properties. It is also stated that this strange attitude of the 1st respondent is a departure from the established norms of acquiring properties, and no citizen can be deprived of his property in a manner unknown to law. It is stated that the petitioner is prepared to surrender his properties for the road widening programme on Nirankari Bhavan to Vishweshwaraiah Bhavan, Hyderabad, provided land acquisition proceedings are initiated, wherein the petitioner is entitled to get compensation as determined by the competent civil Court. In such circumstances, the petitioner had approached this Court.

4. In the light of the facts and circumstances well explained, the respondents are directed to follow the procedure as

contemplated by Section 147 of Hyderabad Municipal Corporation Act, 1955 and the other relevant provisions of the Land Acquisition Act and take further appropriate action in this regard.

5. The Writ Petition is disposed of accordingly. No costs.

28.08.2006

SSR

Issue order copy in two (02) days.

(BO)